

UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH DAKOTA  
SOUTHERN DIVISION

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JAMES ANTHONY MURPHY,

Plaintiff,

vs.

UNITED STATES OF AMERICA,

Defendant.

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16-CV-4080

GOVERNMENT'S MOTION TO  
DISMISS PLAINTIFF'S MOTION TO  
VACATE, SET ASIDE, OR CORRECT  
SENTENCE

Comes now the Government, by and through Assistant United States Attorney Stephanie C. Bengford, and pursuant to Rule 12 of the Rules for Section 2255 Proceedings and pursuant to Federal Rules of Civil Procedure 12(b)(6) and 12(h)(3), files a Motion to Dismiss Petitioner's Motion to Vacate, Set Aside, or Correct a Sentence by a Person in Federal Custody Pursuant to 28 U.S.C. § 2255. Petitioner has failed to state a claim for relief and/or this Court does not have subject matter jurisdiction over Petitioner's motion for § 2255 relief.

The United States of America requests that the Petitioner's motion for § 2255 relief be denied.

Dated July 14, 2016.

RANDOLPH J. SEILER  
United States Attorney

/s/ Stephanie C. Bengford  
STEPHANIE C. BENGFORD  
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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on this 14th day of July, 2016, a true and correct copy of the foregoing was served upon the following person, by placing the same in US Mail, postage prepaid, addressed as follows:

James Anthony Murphy  
#13949-273  
FCI Oxford  
PO Box 1000  
Oxford, WI 53952

/s/ Stephanie C. Bengford  
STEPHANIE C. BENGFORD  
Assistant United States Attorney